

## **§ 1225.5**

their term of service with the Peace Corps or ACTION. When an applicant, trainee, or Volunteer makes a complaint which contains an allegation of illegal discrimination in connection with an action that would otherwise be processed under a grievance, early termination, or other administrative system of the agency, the allegation of illegal discrimination shall be processed under this part. At the discretion of the appropriate Director, any other issues raised may be consolidated with the discrimination complaint for processing under these regulations. Any issues which are not so consolidated shall continue to be processed under those procedures in which they were originally raised.

(b) The submission of class complaints alleging illegal discrimination as defined above will be handled in accordance with the procedure outlined in subpart C.

## **§ 1225.5 Representation.**

Any aggrieved party may be represented and assisted in all stages of these procedures by an attorney or representative of his or her own choosing. An aggrieved party must immediately inform the agency if counsel is retained. Attorney fees or other appropriate relief may be awarded in the following circumstances:

(a) Informal adjustment of a complaint. An informal adjustment of a complaint may include an award of attorney fees or other relief deemed appropriate by the EO Director. Where the parties agree on an adjustment of the complaint, but cannot agree on whether attorney fees or costs should be awarded, or on their amount, this issue may be appealed to the appropriate Director to be determined in the manner detailed in § 1225.11 of this part.

(b) Final Agency Decision. When discrimination is found, the appropriate Director shall advise the complainant that any request for attorney fees or costs must be documented and submitted for review within 20 calendar days after his or her receipt of the final agency decision. The amount of such awards shall be determined under § 1225.11. In the unusual situation in which it is determined not to award attorney fees or other costs to a pre-

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vailing complainant, the appropriate Director in his or her final decision shall set forth the specific reasons thereof.

## **§ 1225.6 Freedom from reprisal.**

Aggrieved parties, their representatives, and witnesses will be free from restraint, interference, coercion, discrimination, or reprisal at any stage in the presentation and processing of a complaint, including the counseling stage described in § 1225.8 of this part, or any time thereafter.

## **§ 1225.7 Review of allegations of reprisal.**

An aggrieved party, his or her representative, or a witness who alleges restraint, interference, coercion, discrimination, or reprisal in connection with the presentation of a complaint under this part, may, if covered by this part, request in writing that the allegation be reviewed as an individual complaint of discrimination subject to the procedures described in Subpart B or that the allegation be considered as an issue in the complaint at hand.

## **Subpart B—Processing Individual Complaints of Discrimination**

## **§ 1225.8 Precomplaint procedure.**

(a) An aggrieved person who believes that he or she has been subject to illegal discrimination shall bring such allegations to the attention of the appropriate Counselor within 30 days of the alleged discrimination to attempt to resolve them. The process for notifying the appropriate Counselor is the following:

(1) Aggrieved applicants, trainees or Volunteers who have not departed for overseas assignments, or who have returned to Washington for any administrative reason shall direct their allegations to the EO Director for assignment to an appropriate Counselor.

(2) Aggrieved trainees or Volunteers overseas shall direct their allegations to the designated Counselor for that post.

(3) Aggrieved applicants, trainees, and Volunteers applying for, or enrolled in ACTION domestic programs shall direct their allegations to the designated Counselor for that Region.

(b) Upon receipt of the allegation, the Counselor or designee shall make whatever inquiry is deemed necessary into the facts alleged by the aggrieved party and shall counsel the aggrieved party for the purpose of attempting an informal resolution agreeable to all parties. The Counselor will keep a written record of his or her activities which will be submitted to the EO Director if a formal complaint concerning the matter is filed.

(c) If after such inquiry and counseling an informal resolution to the allegation is not reached, the Counselor shall notify the aggrieved party in writing of the right to file a complaint of discrimination with the EO Director within 15 calendar days of the aggrieved party's receipt of the notice.

(d) The Counselor shall not reveal the identity of the aggrieved party who has come to him or her for consultation, except when authorized to do so by the aggrieved party. However, the identity of the aggrieved party may be revealed once the agency has accepted a complaint of discrimination from the aggrieved party.

#### § 1225.9 Complaint procedure.

(a) *EO Director.* (1) The EO Director must accept a complaint if the process set forth above has followed, and the complaint states a charge of illegal discrimination. The agency will extend the time limits set herein (a) when the complainant shows that he or she was not notified of the time limits and was not otherwise aware of them, or (b) the complainant shows that he or she was prevented by circumstances beyond his or her control from submitting the matter in a timely fashion, or (c) for other reasons considered sufficiently by the agency. At any time during the complaint procedure, the EO Director may cancel a complaint because of failure of the aggrieved party to prosecute the complaint. If the complaint is rejected for failure to meet one or more of the requirements set out in the procedure outlined in §1225.8 or is cancelled, the EO Director shall inform the aggrieved party in writing of this Final Agency Decision; that the Peace Corps or ACTION will take no further action; and of the right, to file a civil

action as described in §1225.21 of this part.

(2) Upon acceptance of the complaint and receipt of the Counselor's report, the EO Director shall provide for the prompt investigation of the complaint. Whenever possible, the person assigned to investigate the complaint shall occupy a position in the agency which is not, directly or indirectly, under the jurisdiction of the head of that part of the agency in which the complaint arose. The investigation shall include a thorough review of the circumstances under which the alleged discrimination occurred, and any other circumstances which may constitute, or appear to constitute discrimination against the complainant. The investigator shall compile an investigative file, which includes a summary of the investigation, recommended findings of fact and a recommended resolution of the complaint. The investigator shall forward the investigative file to the EO Director and shall provide the complainant with a copy.

(3) The EO Director shall review the complaint file including any additional statements provided by the complainant, make findings of fact, and shall offer an adjustment of the complaint if the facts support the complaint. If the proposed adjustment is agreeable to all parties, the terms of the adjustment shall be reduced to writing, signed by both parties, and made part of the complaint file. A copy of the terms of the adjustment shall be provided the complainant. If the proposed adjustment of the complaint is not acceptable to the complainant, or the EO Director determines that such an offer is inappropriate, the EO Director shall forward the complaint file with a written notification of the findings of facts, and his or her recommendation of the proposed disposition of the complaint to the appropriate Director. The aggrieved party shall receive a copy of the notification and recommendation and shall be advised of the right to appeal the recommended disposition to the appropriate Director. Within ten (10) calendar days of receipt of such notice, the complainant may submit his or her appeal of the recommended disposition to the appropriate Director.